

0027-09

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

STUDENT O. DOE

V.

WARWICK SCHOOL DEPARTMENT

Decision

Held: Request for reimbursement of
cost of private tutoring for high
school senior denied.

Date: December 15, 2009

Introduction

Student Doe's parents are requesting that the Warwick School Department reimburse them for the \$840 they spent for tutoring services their daughter needed to complete her high school graduation requirements.¹

Background

Student Doe failed her health course in the first quarter of her senior year.² She also received a grade of E in English IV for the first quarter.³ In mid-December 2008, she received a progress report showing a D average in English IV for the second quarter. Her cumulative grade in English IV at the conclusion of the second quarter remained an E.⁴

Starting in late January 2009, the school scheduled meetings for seniors with academic issues. Doe and her parents attended such a meeting in early February 2009. Doe was informed that she needed to obtain tutoring in health to make up the class, produce more work for her senior project, and attend every "department night" in English so she could get extra help and make up her work. No mention was made at the meeting that Doe was experiencing health problems.

The "Class Policies" document distributed by Doe's English IV teacher and received by Doe's parents includes the following provisions:

Department Night -- TUESDAY is Department Night. Any missed tests or quizzes must be completed by the NEXT Department Night or the grade may be counted as a zero. Work, sports, or other extracurricular activities are NOT acceptable reasons for missing Department Night. Students not attending due to doctor's appointments must have a note from parents.

Makeup Work: Failures -- **For the first quarter**, students who fail a test or quiz have an opportunity to make the grade up to a passing grade of 65. Students **must attend the next Department Night** in order to make up the grade. . . (emphasis in original) [School Department Exhibit 3].

¹ The Commissioner of Education designated the undersigned hearing officer to hear and decide the request. A hearing was held on October 21, 2009.

² Doe finished the one-quarter course with a 52 average. She missed numerous assignments and tests.

³ Her average was 24.

⁴ Her cumulative average was 42.

As of the end of January 2009, Doe had 17 absences and 20 tardies.⁵ Because Doe's English IV class frequently met in the morning, Doe missed class often.

In March 2009, Doe's parents provided the school with medical documentation from Doe's doctor. The documentation consisted of progress notes dated July 22, October 6, October 24 and December 2, 2008, and February 9 and 13, 2009. The notes do not contain a clear diagnosis.

The principal testified that the school's makeup-work policy allows students to complete missed assignments as long as the work is submitted within two weeks of the original due date. The medical documentation submitted for Doe in March 2009 was the first notice to the school that Doe was experiencing health issues. The documentation did not state that Doe was unable to complete her schoolwork. The principal told Doe that she needed to attend every department night to improve her English IV grade. The principal later learned that Doe did not attend department night in health, either.

The English IV teacher testified that Doe did not attend department night at all in the first semester nor did she request extra help. Doe attended department night twice in the second semester.⁶ The teacher told Doe and her father that students could make up work missed in the past two weeks at department night, but not work from previous quarters. The teacher denied telling Doe in March 2009 not to bother to come to department night, but he did emphasize that her grade was very low.

Doe's father testified that the English IV teacher refused to allow Doe to make up missed work, and that the teacher told Doe and him on two separate occasions in March 2009 that it was a waste of time for Doe to attend department night because she was going to fail. Doe's father produced a copy of a note from Doe's doctor dated April 14, 2009 stating that Doe "is currently under my care and treatment for any missed time out of school." [School Department Exhibit 4]. Doe's father testified that he gave the school two doctor's notes before the April 14th note, and that he told the principal that Doe was physically absent and mentally distracted due to health problems.

Doe failed her English IV course with a 43.7 average. She passed her other courses. Doe had 29 absences and 42 tardies for the year. She did not participate in the

⁵ Of the 17 absences, 8 were unexcused.

⁶ Doe attended on April 23, 2009 and on another unspecified date.

graduation ceremony and she received her diploma in the summer of 2009 after completing the tutoring obtained by her parents. Doe's parents paid \$240 for tutoring in health and \$600 for tutoring in English IV.

Positions of the Parties

Doe's parents contend that the school failed to help their daughter when it was informed that she was experiencing medical problems. Doe's father told the principal that Doe's health issues were affecting her academic performance. Furthermore, Doe's English IV teacher did not allow makeup work and told Doe and her father in March 2009 that it was a waste of time for Doe to attend department night because she was going to fail.

The School Department denies that it neglected Doe. School officials initiated the discussion about Doe's failing grade in English IV and Doe was given the opportunity to get the additional help that could have improved her grade. Doe did not stay current with her work and did not get the help that was available. Doe's cumulative average in English IV remained very low late into the school year. The low grade was the result of Doe's lack of effort. Doe did not have any long-term absences from school, and her medical documentation does not explain why she had failing grades only in health and English IV. Ultimately, Doe bears the responsibility for missing too many assignments and tests in these two courses and for not taking advantage of the makeup and other opportunities to improve her grades.

Discussion

The small amount of evidence in the record concerning Doe's first-quarter health course shows that she missed assignments and tests, did not attend department night, and failed with a final average of 52. Doe's doctor's October 2008 progress reports, which were given to the school in March 2009, do not mention illness-related difficulties in school. The evidence therefore supports the School Department's contention that Doe's failing grade in health was the result of her poor effort.

A similar pattern of evidence exists for Doe's English IV course. Doe missed a lot of class time and fell behind in her work. She did not attend department night or ask for extra help. She finished the first quarter with a disastrous 24 average. Doe's cumulative average did not significantly improve in the second quarter. A school-initiated meeting in February 2009 brought this situation to the fore, but there was no major change in Doe's effort. Despite a claim that the English IV teacher stated in March that Doe should not bother attending department night, the record shows that Doe subsequently reported to department night on two occasions. The teacher worked with Doe on both occasions.

Doe's medical progress reports were not provided to the school until March 2009. The reports do not address school attendance or academic issues. They merely show that Doe presented various complaints to her doctor on 5 occasions during the 2008-09 school year. The April 14, 2009 doctor's note presented at the hearing links "missed school time" to the doctor's care and treatment, but it does not mention the need for tutoring or any other academic modification for Doe. As noted by the School Department, Doe's absences were sporadic, not long-term. She retained access to her English IV teacher and could have made arrangements to do makeup work and receive extra help. This did not happen. In the meantime, Doe's cumulative average remained well below passing level.

English IV was the only course Doe failed at the conclusion of the 2008-09 school year. The evidence in this case does not explain how Doe's health issues undermined her performance in this course but not in any other. Furthermore, Doe's parents did not provide the school with documentation of their daughter's medical treatment until March 2009, well into the third quarter of the school year. By that time, the opportunity to increase Doe's extremely low cumulative average by any significant amount had become very limited. According to school policy, missed work could be made up only within two weeks of its assignment. Missed work was a primary cause of Doe's low English IV grades in the first two quarters. By the time Doe's parents introduced her medical treatment history in the third quarter, it was too late to go back to first and second quarter work. The late date at which the health issue was introduced appears to be at the root of the parties' conflicting testimony about the extent to which Doe was allowed to make up missed work and her prospects for passing English IV. Doe could have made up missed

work in March 2009, but not first or second quarter work. Those were the quarters in which Doe's grades were so low that, with three months to go in the school year, a passing grade in English IV could be viewed as a mathematical long shot.

In any event, the doctor's reports and note do not provide any insight as to how Doe's health issues were preventing her from completing her work in English IV, and the doctor did not recommend any specific remedial academic measures for Doe. The record does show that department night was the opportunity for students to make up work, take missed tests and quizzes, and get extra help in order to improve their grades. The record also shows that Doe did not take advantage of this opportunity. This became a major basis for the school's conclusion that Doe's failing grades were the result of a lack of effort on her part. The evidence in this case does not prove otherwise. The request for tuition reimbursement is therefore denied.

Conclusion

Doe's parents did not prove that the Warwick school district ignored any health issues or requests for academic assistance so as to warrant the reimbursement of private tutoring costs.

Paul E. Pontarelli
Hearing Officer

Approved:

Deborah A. Gist
Commissioner of Education

Date: December 15, 2009